

REMARKS

Claims 1-15 and 19-65 are pending in the above-identified application. Support for the changes to claims 1 and 2 is found at pages 7-8 of the present specification.

It is respectfully requested that the above-noted changes to the claims of the present application be entered of record under 37 CFR 1.116(b), since these changes to the claims respond to requirements of form indicated in the Final Office Action, or at least place these claims into better form for consideration on Appeal.

Restriction Requirement Issues

Applicants respectfully maintain a traversal against the Restriction Requirement for the reasons stated in the Response to Restriction Requirement filed December 22, 2005, which reasons are deemed repeated herein. It is recognized that the subject matter of the claims of Group II and III may be subject to rejoinder if the subject matter of the presently elected claims of Group I is found to be allowable.

Response to Indefiniteness Issues

Claims 1-11 and 29-63 have been rejected under 35 USC 112, second paragraph as allegedly being indefinite. Specifically, the following terms have been objected to in the Final Office Action or a previous Office Action: “C₀₋₃alkylhydroxy”, “C₀₋₃alkyldimethylamino”, “alkanol” and “C₀₋₃alkylOhydroxyC₂₋₄alkyl”. In addition, claim 2 has been objected to because of the phrase “partially saturated”.

Before addressing each of the terms objected to as listed above, it is first submitted that, as the Examiner has recognized, page 7, lines 18-19 of the present specification states that if the subscript is the integer 0 (zero), then, “...the group to which the subscript refers to... is absent.” Thus, the moiety “C₀alkyl” indicates that there is no alkyl group present because there are zero carbon atoms. A person of ordinary skill in the art upon reviewing the disclosure of the present application would conclude that the term “C₀alkoxy” is an hydroxy group because no carbon

atoms are present. The Final Office Action does not indicate a specific reason as to why such a term would be considered “indefinite”. That is, there is no evidence to suggest that a person skilled in the art would become confused by this terminology or that this terminology is somehow ambiguous.

Secondly, it is submitted that a person of ordinary skill in the art would recognize from the disclosure of the present application that the term “C₀₋₃alkylamino” refers to an amino group which is substituted with one type of an alkyl group selected from methyl (C₁), ethyl (C₂) or propyl (C₃); or the amino group is unsubstituted (C₀). A person of ordinary skill would not conclude that the “C₀₋₃alkylamino” moiety could contain up to three alkyl groups bonded to the amino group. In order to indicate that up to three alkyl groups are bonded to an amino group, the following term would be used: “C₀₋₃alkylC₀₋₃alkylC₀₋₃alkylamino”.

It is submitted that the disclosure of the present application, when reviewed by a person of ordinary skill in the art, makes clear the above points regarding the interpretation of the terms used in the present claims. The Final Office Action does not indicate how or why a person skilled in the art would not understand the above interpretation points.

Regarding the term “C₀₋₃alkylhydroxy”, it is submitted, consistent with the above points, that this term clearly encompasses a hydroxy group for “C₀alkyl” and otherwise encompasses methyl-, ethyl- or propyl-hydroxy groups, such that there is no basis for asserting that this term is indefinite. Consequently, this term has been re-inserted into the present claims.

Regarding the term “C₀₋₃alkyldimethylamino”, it is submitted that one of ordinary skill in the art would clearly understand this term to refer to an amino group substituted with two methyl groups and optionally a third alkyl group with up to three carbon atoms. The “dimethylamino” portion of the term indicates that two methyl groups are bonded to the amino group, while the “C₀₋₃alkyl” portion of the term refers to one, single additional alkyl group (methyl, ethyl or propyl), or the absence of any single additional alkyl group (C₀). This term does not encompass a quaternary ammonium group as would be clearly understood to one of ordinary skill in the art, such that there is no basis for asserting that this term is indefinite.

Regarding the term “alkanol”, this term has been converted to “hydroxyalkyl” as generally suggested in a previous Office Action. As a related matter, the carbon range for this term has been moved to the beginning, such that “hydroxyC₁₋₃alkyl” has been changed to – C₁₋₃hydroxyalkyl --. It is submitted that this term is fully supported by the original disclosure of the present application.

Regarding the term “C₀₋₃alkylOhydroxyC₂₋₄alkyl”, this term has been changed to read-- C₀₋₃alkylOC₂₋₄hydroxyalkyl --. It is submitted that this term as changed no longer suggests the presence of any peroxide group as mentioned in the Final Office Action.

Consequently, it is requested that the above-noted rejections be withdrawn.

Response to Written Description Issues

Claims 1, 3-6, 9-11, 29-41, 43-46, 49-52, 55-59, 62, 63 and 65 have been rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement because the definitions in R² and R⁴ in the claims are not consistent with the definitions in the specification.

Claims 2-11, 29-42 and 49-64 have been rejected under 35 USC 112, first paragraph as failing to comply with the written description requirement because of the use of the phrase “partially saturated” in amended claim 2.

Regarding the first rejection listed above, it is noted that claim 1 has been amended to reinsert the original term “C₀₋₃alkylhydroxy”, such that the basis for this rejection has been removed. Regarding the second rejection, claim 2 has been corrected so as to recite the correct phrase “partially unsaturated” so as to remove the basis for this rejection. Consequently, it is requested that these rejections be withdrawn.

Method-of-Treatment-Claims

Applicants acknowledge the comments stated at pages 8-9 regarding the method-of-treatment-claims and process claim. Applicants will submit appropriate amendments to these claims upon the indication of allowable subject matter.


Allowable Claims

It is noted that claims 12 and 13 have been indicated as being in allowable form. It is requested that the remainder of the pending claims of the present application also be placed into allowable form.

If any questions arise in the above matters, please contact Applicant's representative, Andrew D. Meikle (Reg. No. 32,868), in the Washington Metropolitan Area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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By 
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